

CONTRACT LAW DIVISION

Office of the Assistant General Counsel for Finance and Litigation

Biweekly Report—Period Ending April 10, 1999

Appeal of Arthur E. Lees—ASBCA

Arthur E. Lees, a former personal services contractor with the U.S. Foreign Commercial Service in Chengdu, P.R.C., has filed an appeal with the Armed Services Board of Contract Appeal (the State Department served as DoC's servicing agency and the ASBCA is State's contract appeal forum). The contractor seeks an \$80,000 equitable adjustment to the contract price claiming he was an "appointed" Federal employee entitled to certain benefits in excess of the contract price. The State Department contracting officer has denied most of Mr. Lees' claim. (Lisa J. Obayashi)

Arthur E. Lees v. DoC—GAO Nos. B-281181; B-281485; 281523

Arthur E. Lees has also filed several Requests for Reconsideration with GAO requesting that GAO reconsider its decisions to dismiss three previously-filed bid protests. GAO had dismissed the protests based on timeliness as well as other grounds. This latest round of filings was precipitated by the Government's agency report filing (in response to yet another bid protest) which contained a motion to dismiss based on the argument that USFCS' requirements were not subject to procurement rules. (Lisa J. Obayashi)

Domain Names Project

CLD is assisting in the review of the cooperative agreement with NSI.

The Domain Name

Team is also reviewing for completion this week a price cap for NSI registration fees. The current price is \$35 per year with a mandatory initial two year registration. Finally, NIST, on behalf of NTIA, issued an announcement of its intent to issue a sole source contract to ICANN and requested parties submit expressions of interest by March 29, 1999. In general, an expression of interest is a prerequisite for any protest challenging a sole source award. As no parties filed expressions of interest with the contracting office, the possibility of a successful protest is significantly diminished. (Catherine Shea)

PTO-DeskTop Acquisition ReMAP Team

PTO has released its Commerce Business Daily announcement for desktop computers. This \$170

million requirement will be competed on a full and open basis using the CONOPS process. (Lisa J. Obayashi)

NIST—Radioactive?

Ed Weber negotiated terms and conditions for acquisition (by the NIST Chemical Lab) of radioactive isotopes from the Department of Energy's Oak Ridge National Laboratories. In addition to insisting that DOC provide nuclear hazard indemnification, DOE initially demanded DOC/NIST agree to terms that would have resulted in Anti-Deficiency Act violations by the Department and NIST. Through discussions with DOE's Oak Ridge Chief Counsel, we were able to resolve these concerns and facilitate NIST's successful acquisition of these isotopes.

Moldova

We are continuing to work with CLDP and Office of Acquisition Management to assemble a "train the trainers" procurement program to be presented in Moldova in May. (Jerry Walz, Mark Langstein & Lisa Obayashi)

CLD "Time to Complete"—1.4 Days

Actions by Contract Law Division during Period
From 3/28/99 To 4/10/99

| Bureau | Received | Completed |
|--------------|-----------|-----------------|
| CENSUS | 4 | 3 |
| CLDP | 1 | 1 |
| NIST | 10 | 10 |
| NOAA | 10 | 7 |
| O/S | 1 | 0 |
| PTO | 4 | 4 |
| TA | 1 | 1 |
| Total | 31 | Total 26 |

Contract Law Division—Client Workload
Period Ending 04/10/99

